

APR 21 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WYLIE MILLS,

Plaintiff - Appellant,

v.

BUDDY BLACKBURN; et al.,

Defendants - Appellees.

No. 07-35666

D.C. No. CV-07-03019-EFS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of Washington  
Honorable Edward F. Shea, U.S. District Judge, Presiding

Submitted April 15, 2008<sup>\*\*</sup>

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is an appeal from the district court's dismissal without prejudice for failure to identify a basis for federal subject matter jurisdiction in the first amended complaint.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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The Clerk shall file the motions to reinstate the appeal, received on January 22, 2008 and April 1, 2008. The motions to reinstate the appeal are granted. The court's December 31, 2007 order is vacated.

The court has reviewed the record, the opening brief, and the response to the court's November 15, 2007 order to show cause. This review shows that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

**AFFIRMED.**